

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

**August 24, 2021 at 2:00 p.m.**

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1.	<a href="#">20-22852</a> -C-13	DEREK WOLF	MOTION TO DISMISS CASE
	<a href="#">RDG</a> -5	Pro Se	8-6-21 [ <a href="#">222</a> ]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 18 days' notice was provided. Dkt. 225.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Fourth Amended Chapter 13 plan on June 8, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 218, 219.

The Motion also argues debtor is \$4,452.75 delinquent in plan payments, which is supported by declaration. Dkt. 224.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and

**August 24, 2021 at 2:00 p.m.**

upon review of the pleadings, evidence,  
arguments of counsel, and good cause  
appearing,

**IT IS ORDERED** that the Motion to  
Dismiss is granted, and the case is dismissed,  
the court having found that dismissal, and not  
conversion, is in the best interest of  
creditors and the Estate.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 18 days' notice was provided. Dkt. 63.

**The Motion to Dismiss is granted, and the case is dismissed.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not set a confirmation hearing on the proposed Chapter 13 plan.

A review of the docket confirms no confirmation hearing has been set despite the case having been filed four months ago.

The Motion also argues debtor is \$8,669.64 delinquent in plan payments, which is supported by declaration, and that the debtor has not attended any of the scheduled 341 Meetings. Dkt. 62.

Failure to confirm a plan, maintain plan payments, and attend the 341 Meeting constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are  
stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13  
case filed by the Chapter 13 Trustee, Russell  
Greer, having been presented to the court, and  
upon review of the pleadings, evidence,  
arguments of counsel, and good cause  
appearing,

**IT IS ORDERED** that the Motion to  
Dismiss is granted, and the case is dismissed,  
the court having found that dismissal, and not  
conversion, is in the best interest of  
creditors and the Estate.

3. [21-21468](#)-C-13 MARSHAUN TATE  
Mikalah Liviakis

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-26-21 [[37](#)]

**Final Ruling:** No appearance at the August 24, 2021 hearing is required.  
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The court issued this Order To Show Cause because debtor had not paid the fee installment payment due on July 20, 2021. Dkt. 37.

A review of the docket shows that the installment has now been paid. Therefore, the Order To Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 44.

**The Motion to Dismiss is granted, and the case is dismissed.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on July 13, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 34, 35.

Failure to confirm a plan constitutes evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.

5. [21-21875](#)-C-13 KIMBERLY BRADLEY  
Steele Lanphier

CONTINUED ORDER TO SHOW CAUSE -  
FAILURE TO PAY FEES  
6-4-21 [[18](#)]

**No Tentative Ruling:**

The court issued this Order to Show Cause because debtor had not paid the filing fee. Dkt. 18.

At the prior hearing the debtor's counsel appeared and reported difficulty paying the filing fee due to no balance being shown as payable. Counsel requested a continuance to allow resolution of the issue.

**DISCUSSION**

The docket does not reflect payment received.

At the hearing, ~~XXXXXXXXXXXXXXXXXX~~

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is  
~~XXXXXXXXXXXXXXXXXX~~

6. [21-22184](#)-C-13 DONNA BROWN  
Mikalah Liviakis

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-19-21 [[16](#)]

**Final Ruling:** No appearance at the August 24, 2021 hearing is required.  
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The court issued this Order To Show Cause because debtor had not paid the fee installment payment due on July 14, 2021. Dkt. 16.

A review of the docket shows that the installment has now been paid. Therefore, the Order To Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

7. [21-20787](#)-C-13 MARY ANN LEWIS-JOHNSON MOTION TO DISMISS CASE  
[RDG](#)-2 AND AMOS JOHNSON 8-5-21 [[40](#)]  
Gary Fraley

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 43.

**The Motion to Dismiss is denied without prejudice.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the First Amended plan on July 13, 2021.

A review of the docket confirms the First Amended plan was denied confirmation, and no plan is set for confirmation hearing. Dkt. 38, 39.

However, the docket also shows the debtors filed a Second Amended plan and corresponding Motion To Confirm on August 20, 2021. Dkts. 44, 47.

Because it appears debtors are actively prosecuting the case, the Motion is denied without prejudice.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss is denied without prejudice.